

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PACIFICARE OF WASHINGTON, INC.,

Plaintiff,

v.

MIKE LEAVITT, in his capacity as Secretary
of the United States Department of Health
and Human Services,

Defendant.

Case No. C05-0059 RBL

AMENDED STIPULATION AND
ORDER ESTABLISHING BRIEFING
SCHEDULE

On January 13, 2005, Plaintiff Pacificare of Washington, Inc. ("PacifiCare") filed this action appealing the decision of the Secretary of the Department of Health and Human Services (the "Secretary") dated November 18, 2004 allowing coverage of certain medical care provided to Bobby Atkins pursuant to 42 U.S.C. § 405(g) and 42 U.S.C. § 1395w-22(5).

The parties are in agreement that the above-entitled case, as presently pled constitutes "an action for review on an administrative record" within the meaning of Rule 26(a)(1)(E)(i), Fed. R. Civ. P., and therefore exempt from the requirements of Rule 26(a) Fed. R. Civ. P. regarding "lay down" discovery, and Rule 26(f), Fed. R. Civ. P., regarding participation in a discovery conference and formulation of a discovery plan.

On March 21, 2005, this Court entered an Order vacating the portion of the February 14, 2005 Order requiring a Joint Status Report.

Counsel for the parties have conferred and reached the following agreement on a schedule for the briefing and submission of cross-motions for summary judgment and do hereby stipulate that the Court may make and enter an Order providing that:

1. Defendant shall file and serve its motion for summary judgment and supporting memorandum on or before August 1, 2005 (not to exceed 40 pages);

2. Plaintiff shall file its memorandum in opposition to Defendant's motion for summary judgment and any cross-motion for summary judgment no later than Tuesday, August 30, 2005 (not to exceed 40 pages);

3. Defendant shall file any reply memorandum and its opposition to any cross-motion for summary judgment filed by Plaintiff no later than Friday, September 9, 2005 (not to exceed 24 pages);

4. Plaintiff shall file any reply memorandum by no later than Friday, September 16, 2005 (not to exceed 24 pages);

5. Both Defendant's motion for summary judgment and any cross-motion for summary judgment filed by Plaintiff shall be noted on Court's motion calendar for September 16, 2005.

SO STIPULATED

Dated this 8th day of June, 2005.

LANE POWELL PC

By s/Barbara J. Duffy
Barbara J. Duffy, WSBA No. 18885
Attorneys for Plaintiff

JOHN MCKAY
United States Attorney

By s/Peter Winn
Peter Winn, WSBA No. 34701
Assistant United States Attorney
Attorneys for Defendant

1 **IT IS SO ORDERED**

2 DATED this 14th day of June, 2005.

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4 RONALD B. LEIGHTON
5 UNITED STATES DISTRICT JUDGE
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